

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

JAMES GREGORY MORRIS, §
Movant, §
§
v. § No. 3:20-cv-1013-D
§
UNITED STATES OF AMERICA, §
Respondent. §

ORDER

After making an independent review of the pleadings, files, and records in this case, the findings, conclusions, and recommendation of the United States Magistrate Judge dated September 29, 2020, and movant's objections filed on October 8, 2020, the court finds that the findings and recommendation of the magistrate judge are correct, and they are adopted as the findings, conclusions, and recommendation of the court. Movant's motion is therefore dismissed without prejudice under Fed. R. Civ. P. 41(b) for failure to prosecute and to comply with court orders.

Assuming, without deciding, that a certificate of appealability is necessary, the court, considering the record in this case and pursuant to Fed. R. App. P. 22(b), Rule 11(a) of the Rules Governing §§ 2254 and 2255 proceedings, and 28 U.S.C. § 2253(c), denies a certificate of appealability. The court adopts and incorporates by reference the magistrate judge's findings, conclusions, and recommendation filed in this case in support of its finding that the movant has failed to show (1) that reasonable jurists would find this court's "assessment of the constitutional claims debatable or wrong," or (2) that reasonable jurists would find "it debatable whether the petition states a valid claim of the denial of a constitutional right" and "debatable whether [this court] was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

If movant files a notice of appeal,

() movant may proceed *in forma pauperis* on appeal.

(X) movant must pay the \$505.00 appellate filing fee or submit a motion to proceed *in forma pauperis*.

SO ORDERED.

October 19, 2020.



SIDNEY A. FITZWATER
SENIOR JUDGE